

TEXT OF PROPOSED REGULATIONS

In the following text, underlining indicates original new text.

New Section 3426 is adopted to read:

3426. Employee Early Intervention Program.

(a) The Early Intervention Program (EIP) is a voluntary employee benefit available to all departmental employees, who have sustained an industrial injury/illness. The EIP is designed to provide employees with information regarding the assessment and processing of qualified industrial injury/illness claims, as referenced in subdivision (b), and the available choices regarding benefit options and compensability. The Health and Safety Office (HSO), within the Department, shall administer the EIP.

(b) All employees who have sustained the following qualified injury/illness shall be eligible for Early Intervention Counseling (EIC), as referenced in (d)(4):

(1)Psychological stress;

(2)Stress-related injuries, including but not limited to, hypertension, cardiac, gastrointestinal; or

(3)Trauma-induced stress, including but not limited to, assault, blood borne pathogen exposure or infectious disease exposure.

(c) All employees with a claimed injury/illness who have an actual or anticipated long-term disability of thirty (30) days or more, who have an undeterminable or disputed injury shall be eligible for EIC.

(d)Definitions.

(1) Adjusting Agency, means the entity, under a State of California Interagency Agreement with the State Department of Personnel Administration that administers workers' compensations claims on behalf of the Department.

(2) Early Intervention Selection Committee (EISC) means a committee comprised of the Director's representatives in a number equal to the number of Employee Representative Associations

who bargain with the Department on behalf of employee bargaining units, and one representative from each of those Associations.

(3) Agreed Medical Panel Doctor (AMPD), means a Physician and Surgeon as defined in Labor Code section 3209.3, or a Physician and Surgeon holding a valid license to practice medicine in an adjoining state when services will be rendered in that state, who is authorized by the EISC to provide evaluations and treatment within the scope of the EIP.

(4)Early Intervention Counselor (EIC), means an independent, non-departmental employee, authorized by the EISC, who provides information to qualified injured/ill employees regarding workers' compensation and other employee entitlement benefit options.

(5) Return-to-Work Coordinator (RTWC) means the Department's local representative, entrusted with the responsibility of coordinating the EIP at the local level. The RTWC shall be a member of the EISC.

(e) The EIP shall:

(1) Provide for a qualified injured/ill employee to receive an initial EIC services visit, regarding workers' compensation benefit options and other entitlement benefits when referred by the RTWC.

(2) Provide for a qualified injured/ill employee to be referred to an AMPD by the RTWC regarding disputed compensability claims.

(3) Ensure all employee medical and personnel records confidential at all times.

(f) The EISC shall:

(1)Review resumes of qualifications and authorize individuals to provide EIC services within the scope of the EIP.

(2)Order corrective action or revoke the authorization of an EIC to provide services after the EIC is given a written statement of the charges, if the following have occurred:

(A) Upon investigation of a serious complaint filed by an employee, the complaint is found to have merit by the EISC;

(B) The EIC fails to respond to a corrective action order; or

(C) The EISC determines inadequate EIC performance due to neglect of duty, misconduct, or illegal or unprofessional conduct.

(3) Give the EIC an opportunity to present a defense prior to revoking the EIC's authority to provide EIP services. The EISC's decisions shall be based on a simple majority of the members in attendance. The decision of the EISC is final and not appealable.

(g) The EIC shall:

(1) Submit a resume of qualifications to the RTWC.

(2) Respond to injured/ill employees when referred by the local RTWC;

(3) Notify the local RTWC of a the scheduled visit with the injured/ill employee within three (3) working days of contact with the employee;

(4) Explain all benefit options to injured/ill employee;

(5) Obtain prior approval from the local RTWC for additional telephone calls or visits to the injured/ill employee;

(6) Attend training, if requested, by the HSO;

(7) Submit itemized billing to the RTWC for visits in accordance with the Vocational Rehabilitation Fee Schedule, as referenced in the California Code of Regulations (CCR), Title 8, sections 10132 and 10132.1.

(8) Submit itemized billings to the RTWC for mileage reimbursement in accordance with the State Board of Control rules, as referenced in CCR, Title 2, section 714.

(h) The EIC shall not have access to an employee's confidential medical and personnel records.

(i) The AMPD shall provide medical, psychological, and psychiatric treatment under Labor Code section 4600, and provide written opinions or evaluations to assist in decisions regarding compensability pursuant to CCR, Title 8, section 9785, at the request of the RTWC.

(j) The RTWC shall:

- (1) Serve as local EIP coordinator;
- (2) Coordinate the local EISC meetings and participate as a voting member;

(3) Refer the qualified injured/ill employee to an EIC within three (3) working days of knowledge of the employee's EIP eligibility;

(4) Review, authorize, and forward itemized billings submitted by the EIC for payment to the Adjusting Agency; and

(5) Maintain a log of injured/ill worker EIC referrals and submit to the HSO by the 10th of every month.

(k) The Adjusting Agency shall:

(1) Compile reports and statistical data as requested by the Department;

(2) Refer departmental injured/ill employees to a Physician and Surgeon for any additional medical, psychological, and psychiatric evaluations as needed to determine compensability for disputed claims; and

(3) Pay itemized bills for EIP services submitted by the RTWC.

Note: Authority Cited: Section 5058, Penal Code; Section 3214 Labor Code.

Reference: Sections 5054, Penal Code; Sections 139.2, 3209.3, 4600, 4635(b), and 5307.1. Labor Code; CCR, Title 2, Section 714; CCR, Title 8, Sections 9785, 10132 and 10132.1, Title 15, Div. 3, section 3434; Government Code, Section 8547.2(b); and State of California, Interagency Agreement, A9450207, AM-IV.